

REMARKS

Applicant is in receipt of the Office Action mailed November 28, 2007. Claims 4, 11-12, 22-23, and 26-27 have been amended. Claims 1, 4, 6, and 8-30 are pending in the case. Reconsideration of the present case is earnestly requested in light of the following remarks.

Telephone Interview Summary

On Tuesday, January 22, Applicant conducted a telephone interview with the Examiner in which the applicability of 35 U.S.C. 103(c) to the present case was discussed. The Examiner indicated that a Response should be filed indicating this applicability of the statute, to which Applicant agreed.

Objections

Claim 4 was objected to for depending from cancelled claim 2, and has been amended accordingly. Applicant respectfully requests removal of the objection to this claim.

Section 112 Rejections

Claims 11-12, 22-23, and 26-27 were rejected under 35 U.S.C. 112, second paragraph, for being indefinite, specifically, for reciting the trademarked names Bluetooth and IrDA. Applicant has amended these claims accordingly to recite generic descriptors instead, and respectfully requests removal of the section 112 rejections.

Section 103 Rejections

Claims 1, 4, 6, and 8-30 were rejected under 35 U.S.C. 103(a) as being unpatentable over Kodosky (US 6,173,438) in view of Ghercioiu (US 2004/0010734).

Applicant respectfully notes that, per 35 U.S.C. 103(c), “subject matter developed by another person, which qualifies as prior art only under one or more of subsections (c), (f), and (g) of section 102 of this title, shall not preclude patentability under this section

where the subject matter and the claimed invention were, at the time the claimed invention was made, owned by the same person or subject to an obligation of assignment to the same person.”

Applicant respectfully submits that Kodosky and Ghercioiu share a common assignee, specifically, National Instruments Corporation, and, per the Office Action and Applicant’s analysis, Ghercioiu qualifies as prior art only under 35 U.S.C. 102(e) (note that Ghercioiu has a filing date of October 30, 2002, and the present application has a filing date of December 11, 2003). Thus, per 35 U.S.C. 103(c), Applicant respectfully submits that Ghercioiu is not available as prior art in a section 103 rejection.

Applicant respectfully submits that as explained in the previous Response, which is hereby incorporated by reference in its entirety, Kodosky fails to teach or suggest all the features and limitations of the independent claims, and so the claims as currently written are patentably distinct and non-obvious over the cited art, and are thus allowable.

Applicant thus respectfully requests removal of the section 103 rejection of claims 1, 4, 6, and 8-30.

CONCLUSION

In light of the foregoing amendments and remarks, Applicant submits the application is now in condition for allowance, and an early notice to that effect is requested.

If any extensions of time (under 37 C.F.R. § 1.136) are necessary to prevent the above-referenced application(s) from becoming abandoned, Applicant(s) hereby petition for such extensions. The Commissioner is hereby authorized to charge any fees which may be required or credit any overpayment to Meyertons, Hood, Kivlin, Kowert & Goetzel P.C., Deposit Account No. 50-1505/5150-80501/JCH.

Also filed herewith are the following items:

- ☐ Request for Continued Examination
- ☐ Terminal Disclaimer
- ☐ Power of Attorney By Assignee and Revocation of Previous Powers
- ☐ Notice of Change of Address
- ☐ Other:

Respectfully submitted,

/Jeffrey C. Hood/
Jeffrey C. Hood, Reg. #35198
ATTORNEY FOR APPLICANT(S)

Meyertons, Hood, Kivlin, Kowert & Goetzel PC
P.O. Box 398
Austin, TX 78767-0398
Phone: (512) 853-8800
Date: 2008-01-28 JCH/MSW